

**§ 1625.3 Grounds for denial of refunding.**

Refunding may be denied when:

(a) Denial is required by, or will implement, a provision of law, a Corporation rule, regulation, guideline, or instruction that is generally applicable to all recipients of the same class, or a funding policy, standard, or criterion approved by the Board; or

(b) There has been significant failure by a recipient to comply with a provision of law, or a rule, regulation, guideline, or instruction issued by the Corporation, or a term or condition of a current or prior grant from or contract with the Corporation; provided, however, that a recipient's failure to comply with any of the requirements in this paragraph at a time when the requirement was not in effect or at a time more than 6 years prior to the date the recipient receives notice of the failure pursuant to § 1625.4 shall not be a basis for denial of refunding; or

(c) There has been significant failure by a recipient to use its resources to provide economical and effective legal assistance of highly quality as measured by generally accepted professional standards, the provisions of the act, or a rule, regulation, or guideline issued by the Corporation. If the recipient could not reasonably be expected to have prevented or corrected its failure without notice from the Corporation and an opportunity to have taken effective corrective action, refunding shall not be denied for this cause unless the Corporation has given the recipient such notice and opportunity; or

(d) The Corporation finds that another organization, whether a current recipient or not, could better serve eligible clients in the recipient's service area.

**§ 1625.4 Notice.**

When there is reason to believe that refunding should be denied, the Corporation shall serve a written notice upon the recipient, and the Chairperson of its governing board, which shall include:

(a)(1) A short and plain statement, in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a single set of cir-

cumstances, of the factual grounds for the denial of refunding;

(2) If the ground specified in § 1625.3(d) is asserted, the statement shall identify the other organization and specify the basis for the Corporation's assertion that it could better and more economically serve eligible clients;

(b) An affidavit or affidavits covering the direct testimony of each witness upon whom Corporation's counsel relies; such affidavit(s) shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein; sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be appended thereto; depositions, if available, shall be included;

(c) A memorandum of points of law and authorities showing with particularity:

(1) That the affidavit(s), paper(s), and deposition testimony specified in paragraph (b) of this section constitute evidence of such discrete factual allegations as were identified in paragraph (a)(1) of this section and as are sufficient under applicable law to support denial of refunding;

(2) The legal standards, rulings, statutes, regulations, or decisional law upon which the Corporation relies in advancing its theories or arguments in support of denial of refunding with particularized reference and adequate citation to competent authority; and

(3) As proximately as reasonably possible, the logical nexus and points of reference among (i) affidavit(s), paper(s), and deposition testimony specified in paragraph (b) of this section,

(ii) The factual grounds as identified in enumerated paragraphs specified by paragraph (a)(1) of this section, and

(iii) The legal theories or arguments advanced by the Corporation to justify denial of refunding.

(d) A directive to show cause, signed by an official of the Corporation other than the President, which shall inform the recipient that, if within 30 days of the recipient's receipt of this notice the Corporation receives a request for a hearing as specified in § 1625.5 of this